

Judge John P. Fullam

Judge Fullam was born on December 10, 1921, in Gardenville, Pennsylvania. He received a B.S. in Education from Villanova University in 1942 and a J.D. from Harvard University in 1948. Judge Fullam was admitted to the Pennsylvania Bar in 1949. From 1949 to 1960, he was in private practice in Bristol, Pennsylvania. He served as a Judge in the Pennsylvania Court of Common Pleas, Seventh Judicial Circuit, from 1960 to 1966. Judge Fullam was appointed to the United States District Court for the Eastern District of Pennsylvania on August 11, 1966. He served as Chief Judge of the District Court from July 1986 to April 1990, when he assumed senior status.

PRELIMINARY GENERAL MATTERS

1. *Correspondence With the Court*

Judge Fullam permits correspondence for scheduling issues, but he prefers not to make any substantive rulings on the basis of correspondence.

2. *Communications With Law Clerks*

Judge Fullam permits counsel to speak with his law clerks, but only for scheduling and other appropriate matters, *not* for legal advice or discussion of legal issues.

3. *Telephone Conferences*

Judge Fullam usually finds telephone conferences a preferred method of handling matters such as discovery motions, scheduling, and extensions of time. The best times for telephone conferences are the lunch recess (1:15-1:45 p.m.) and the late afternoon (after 4:30 p.m.).

4. *Oral Arguments and Evidentiary Hearings*

Judge Fullam does not set aside any certain days or times for oral arguments or evidentiary hearings.

5. *Pro Hac Vice Admissions*

Judge Fullam does not have a preference as to how counsel should submit a *pro hac vice* motion to the Court.

CIVIL CASES

Pretrial Procedure

1. *Pretrial Conferences*

Judge Fullam does not regularly conduct any pretrial conferences, but he will schedule one upon request of counsel. The agenda at a pretrial conference is determined by the nature of the issues that counsel desire to raise with the Court. Judge Fullam does not issue any standard form of pretrial order. On occasion, he will issue a status report form requesting information from counsel in lieu of a standard pretrial order. A copy of this form is attached.

2. *Scheduling of Oral Arguments and Evidentiary Hearings*

Judge Fullam allows counsel to arrange for the scheduling of oral arguments and evidentiary hearings, as well as briefing schedules, so long as the scheduling is not unreasonable.

Continuances and Extensions

1. *General Policy*

Judge Fullam will continue a trial date only if it is genuinely necessary and if the delay is unlikely to cause prejudice. If counsel want an extension of a trial date, they should seek the extension well in advance of trial, if possible. Otherwise, the Court may impose the other side's witness costs caused by the continuation of the trial date.

Judge Fullam permits counsel to continue discovery past the deadline, provided that the additional discovery does not unduly delay trial.

2. *Requests for Extensions and Continuances*

When seeking an extension of time or a continuance, Judge Fullam prefers a stipulation when the matter is undisputed and a motion when a continuance or extension request is contested.

General Motion Practice

1. *Oral Argument on Motions*

Judge Fullam hears oral argument on motions only if it is requested and if the Court believes it would be useful.

2. *Reply and Surreply Briefs*

Judge Fullam has no policy on whether the parties may submit reply or surreply briefs.

3. *Chambers Copies of Motion Papers*

Sending a courtesy copy of motion papers is a good idea for *significant* motions, but it is not necessary.

Discovery Matters

1. *Length of Discovery Period and Extensions*

Judge Fullam usually permits approximately six months of discovery from the date the case is filed, but this depends on the nature of the case. If counsel have been diligent and genuinely need more time for discovery, the Court will usually grant additional time.

2. *Discovery Conferences and Dispute Resolution*

Judge Fullam does not usually hold discovery conferences. He will permit telephone conferences to resolve discovery disputes that arise during depositions.

3. *Confidentiality Agreements*

For uncontested confidentiality agreements, Judge Fullam usually prefers that counsel submit a stipulated order for consideration. Occasionally, the Court will require that further papers be submitted if the public's "right to know" or "right to access" appears threatened.

4. *Expert Witnesses*

Judge Fullam does not have any policy on whether the parties must submit written expert reports or produce their experts for depositions, but all expert witnesses must be identified sufficiently in advance of trial to permit adequate preparation by all parties.

Settlement

1. *General Approach to Settlement and Non-jury Cases*

Judge Fullam's approach to settlement depends on the nature of the case and the attorneys involved. He usually refers non-jury cases to a Magistrate Judge for settlement negotiations. However, if all parties specifically request, on rare occasions, Judge Fullam will participate in settlement negotiations in non-jury cases. In such cases, the discussions avoid specific figures and similar areas, and instead focus on legal issues, such as statute of limitations, admissibility of

evidence, etc.

2. *Referral of Settlement Negotiations to Another District Court Judge*

In complex non-jury cases, Judge Fullam may refer settlement negotiations to another District Court Judge.

Arbitration

1. *General Approach to Arbitration Cases*

Judge Fullam telescopes the time periods for discovery and trial in arbitration cases, and he discourages over-expenditure of funds. For example, Judge Fullam suggests informal alternatives to motion practice.

2. *Scheduling of Trial De Novo From Arbitration*

Once a trial *de novo* is demanded, Judge Fullam schedules trial very promptly, on the theory that counsel are ready to try the case. Other than this scheduling procedure, Judge Fullam does not have any special practices or procedures in arbitration cases.

Proposed Final Pretrial Memoranda

1. *Required Form of Pretrial Memoranda*

Judge Fullam never requires the Local Civil Rule 21 “long form” of pretrial memoranda. In complex cases, he enters an Order specifying what is required. In all other cases, pretrial memoranda are welcome if counsel desire to submit them. Judge Fullam usually finds that an exchange of exhibits and witness lists will suffice.

2. *Common Deficiencies in Pretrial Memoranda*

Judge Fullam commonly observes the following deficiencies in proposed pretrial memoranda: (1) too much useless, repetitive, boilerplate information; and (2) a reluctance by counsel to concede any issue, even though concession by the end of trial is inevitable.

Injunctions

1. *Scheduling and Expedited Discovery*

If the schedule is crowded, Judge Fullam may limit the initial hearing to approximately one hour (during the lunch recess or in the late afternoon) and then schedule any further hearings

as necessary. He may permit expedited discovery in injunctive matters depending on the facts and circumstances of the particular case.

2. *Proposed Findings of Fact and Conclusions of Law*

Judge Fullam requires proposed findings of fact and conclusions of law at the final hearing or shortly thereafter.

Trial Procedure

1. *Scheduling of Cases*

Judge Fullam usually schedules some cases for a date certain, with backup cases in the trial pool. Counsel whose cases are in the pool must maintain constant telephone contact with the deputy clerk. No one is forced to trial on prejudicially brief notice.

2. *Conflicts of Counsel*

Counsel should notify Judge Fullam of any professional or personal conflicts affecting the trial schedule by telephoning or writing to the deputy clerk.

3. *Cases Involving Out-of-Town Parties or Witnesses*

Judge Fullam will occasionally use a special listing where the case involves numerous, unusually busy, or out-of-town lawyers.

4. *Notetaking by Jurors*

Judge Fullam has no objection to jurors taking notes.

5. *Trial Briefs*

Judge Fullam encourages counsel to submit trial briefs in unusual or complex cases and in cases where tricky issues are anticipated.

6. *Voir Dire*

Voir dire in civil cases is conducted completely by counsel, with the deputy clerk present. If disputes arise, Judge Fullam usually handles them in chambers. Judge Fullam prefers that counsel not spend more than one hour on *voir dire*.

7. *Side Bars*

Side bars should be infrequent and should be sought only when truly necessary.

8. *In Limine Motions*

Judge Fullam offers the following observations on motions *in limine*: (1) Motions to exclude testimony must be filed before the other side spends the money to have the witness attend trial; and (2) Motions *in limine* are usually pointless.

9. *Examination of Witnesses Out of Sequence*

Judge Fullam will permit counsel to examine witnesses out of turn for the convenience of the witnesses.

10. *Opening Statements and Summations*

No time limits are placed on opening statements or summations by counsel.

11. *Examination of Witnesses or Argument by More Than One Attorney*

More than one attorney for a party may examine different witnesses or argue different points before Judge Fullam.

12. *Examination of Witnesses Beyond Redirect and Recross*

Judge Fullam does not have any general policy on further examination of a witness after redirect and recross have been completed.

13. *Videotaped Testimony*

Unless a ruling is sought well in advance of trial, and can be intelligently rendered at that time, whatever is on the videotape is placed before the jury at trial.

14. *Preparation of Exhibits*

Judge Fullam requires that exhibits be pre-marked and pre-exchanged, and, unless the exhibit is voluminous or of such a nature that it is difficult to reproduce, counsel should provide one set for Judge Fullam.

15. *Offering Exhibits Into Evidence*

Counsel may choose when to offer their exhibits into evidence; Judge Fullam does not have a preference.

16. *Motions for Judgment as a Matter of Law and Motions for Judgment on Partial Findings*

Motions for judgment as a matter of law (or motions for judgment on partial findings in

non-jury trials) may be oral or written. Judge Fullam will hear argument on the motion if counsel desire to argue the matter.

17. *Proposed Jury Instructions and Verdict Forms*

Proposed jury instructions, interrogatories to the jury, or verdict forms should only be submitted for difficult or novel issues or areas of law. Supplemental proposed points may be submitted at any time before Judge Fullam charges the jury. Judge Fullam usually holds a brief side bar before summations to discuss the proposed jury instructions.

18. *Proposed Findings of Fact and Conclusions of Law*

Proposed findings of fact and conclusions of law should be submitted in non-jury trials at the close of the evidence or shortly thereafter. The proposed findings or conclusions should contain clear, simple language arranged in an organized, orderly fashion.

Jury Deliberations

1. *Written Jury Instructions*

Judge Fullam has never given the jury a copy of the jury instructions, but he may someday if a case requires it.

2. *Exhibits in the Jury Room*

All exhibits usually go out to the jury unless counsel request otherwise.

3. *Handling of Jury Requests to Read Back Testimony or Replay Tapes*

Judge Fullam will read back portions of testimony or replay tape recordings or videotapes to the jury if it is feasible.

4. *Availability of Counsel During Jury Deliberations*

Counsel should be available on 10 minutes' notice during jury deliberations. As a practical matter, this means that counsel must either stay in the courthouse or have an associate present.

5. *Taking the Verdict and Special Interrogatories*

Whether Judge Fullam takes a general or special verdict depends on the case. If useful, depending on the case, Judge Fullam will submit interrogatories to the jury.

6. *Polling the Jury*

While Judge Fullam finds that requests to poll the jury in civil cases are rare, he will poll the jury if counsel so request.

7. *Interviewing the Jury*

Judge Fullam will permit counsel to interview jurors after the verdict is recorded, and he does not usually place limitations on such interviews.

CRIMINAL CASES

1. *Approach to Oral Argument and Motions*

Judge Fullam varies the approach to oral argument in criminal cases, depending on the nature of the motion. Frequently, Judge Fullam will dispose of pending motions just before jury selection, with an opportunity for brief oral argument if desired.

2. *Pretrial Conferences*

Pretrial conferences are held only if requested.

3. *Voir Dire*

Voir dire in criminal cases is conducted by Judge Fullam. Counsel may submit questions to Judge Fullam. If individual *voir dire* is conducted, Judge Fullam will usually allow counsel to ask a few additional questions if desired.

4. *Sentencing Memoranda*

The Government and the defendant may submit sentencing memoranda to Judge Fullam.

OTHER GENERAL MATTERS

Judge Fullam would like to receive copies of appellate briefs if a decision rendered by him is appealed.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA, PA 19106

RE:

Civil Action No.

Enclosed please find a status form, which you should fill out and return to this office as soon as possible. This form will enable us to schedule your case and others in a more efficient manner.

Counsel will note that it is Judge Fullam's policy that except for complex cases, discovery by all parties shall be completed not later than four months from the date of service of process or the entry of appearance by all defendants; cases should be tried or settled within nine months of the date of the filing of the complaint.

If you feel this time frame cannot be met, please state the reasons for same and indicate what additional time is needed. Please fill out the form carefully, as we will use this information as a guideline for listing the case for trial. If requested by counsel, the Court will hold a pretrial or settlement conference at any time, but no such conference will ordinarily be scheduled in the absence of a request.

All scheduling matters should be directed to me in writing or by calling 215-597-0436. Your cooperation will be appreciated.

Very truly yours,

Rita A. Dougherty
Secretary/Deputy Clerk to Judge Fullam

Encl.

Jury Trial _____
Non-Jury Trial _____
Civil Action No. _____
Caption of Case _____

Name of Trial Counsel _____
Law Firm _____
Address _____
Telephone No. _____
Representing _____

1. By what date can discovery be completed? _____
2. The case will be ready for trial on or about _____

(The Court will use this date as the approximate listing date for trial.)

3. Will an early settlement conference (prior to completion of discovery) be helpful in effecting a settlement of this case?

Yes ____ No ____

If your answer is "Yes", state the appropriate time for such a conference _____

The Court will not list this case for a pretrial conference unless all parties request it. Parties should make the request in writing, stating the topic to be discussed.

4. Trial time:
 - (a) Estimate of total time to present your case _____
 - (b) Estimate of total time for the entire trial _____

5. In addition to the above, do you have any special comments to make?
(If necessary, use reverse side.)

Name of counsel preparing form _____

Date _____